UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO

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GEOFFREY M. BANKS,

CASE NO. 3:14-CV-1945

Petitioner,

.

v. :

[Resolving Doc. Nos. 1, 14]

OPINION & ORDER

JASON BUNTING, Warden,

:

Respondent.

:

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## JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Petitioner Geoffrey Banks seeks a writ of habeas corpus under <u>28 U.S.C.</u> § <u>2254</u> and moves for a stay and abeyance of the petition. On November 4, 2015, Magistrate Judge Burke recommended that this Court dismiss the petition and deny the motion for stay and abeyance. Neither party objected to Magistrate Judge Burke's Report and Recommendation ("R&R").

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a R&R to which a party has made an objection. Parties must file any objections to a R&R within fourteen days of service. Failure to object within that time waives a party's right to have the Court review the R&R. Absent objection, a district court may adopt the R&R without review.

½Doc. 1. Respondent filed a return of writ. Doc. 5. Petitioner filed a traverse. Doc. 17. Respondent replied. Doc. 18. Petitioner replied. Doc. 20.

 $<sup>^{2/}</sup>$ Doc.  $\underline{14}$ . Respondent filed an opposition. Doc.  $\underline{16}$ . Petitioner replied. Doc.  $\underline{19}$ .

 $<sup>\</sup>frac{3}{2}$ Doc. 21.

<sup>&</sup>lt;u>4/28 U.S.C. § 636(b)(1)(C)</u>.

<sup>&</sup>lt;sup>5</sup>/<sub>Fed. R. Civ. P. 72(b)(2)</sub>; <u>LR 72.3(b)</u>.

 $<sup>\</sup>frac{6}{LR}$  72.3(b); see <u>Thomas v. Arn, 474 U.S. 140, 145 (1985)</u>; <u>United States v. Walters, 638 F.2d 947, 949–50 (6th Cir. 1981)</u>.

<sup>&</sup>lt;sup>7</sup>/See *Thomas*, 474 U.S. at 149.

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Gwin, J.

In this case, neither party has objected to the R&R. Moreover, having conducted its own

review of the record in this case, this Court agrees with the conclusions of Magistrate Judge Burke.

Accordingly, the Court ADOPTS in whole Magistrate Judge Burke's Report and

Recommendation and incorporates it fully herein by reference. The Court **DISMISSES WITH** 

**PREJUDICE** Banks' petition and **DENIES** his motion for stay and abeyance. Moreover, the Court

certifies that an appeal from this decision could not be taken in good faith and that no basis exists

upon which to issue a certificate of appealability under 28 U.S.C. § 1915(a)(3).8/

IT IS SO ORDERED.

Dated: December 18, 2015

James S. Gwin

JAMES S. GWIN

UNITED STATES DISTRICT JUDGE

<sup>8</sup>/<sub>28</sub> U.S.C. § 2253(c); Fed. R. App. P. 22(b).

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